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NANCY L. ABELL (SB# 088785)
nancyabell@paulhastings.com
HEATHER A. MORGAN (SB# 177425)
heathermorgan@paulhastings.com
PAUL, HASTINGS, JANOFISKY & WALKER LLP
515 South Flower Street, Twenty-Fifth Floor
Los Angeles, CA 90071-2228
Telephone: (213) 683-6000 / Facsimile: (213) 627-0705

GINA GUARIENTI COOK (SB# 245611)
ginacook@paulhastings.com
PAUL, HASTINGS, JANOFISKY & WALKER LLP
55 Second Street, Twenty-Fourth Floor
San Francisco, CA 94105
Telephone: (415) 856-7000 / Facsimile: (415) 856-7100\

Attorneys for Defendants
KAISER FOUNDATION HEALTH PLAN, INC.,
KAISER FOUNDATION HOSPITALS, and
THE PERMANENTE MEDICAL GROUP, INC.

[Plaintiffs' Counsel listed on next page.]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRENDA HILL, MEDHANIE
BERNE, PATSY HARDY,
MICHELLE MIKE, EVELYN
JENNINGS and RENA
HARRISON, on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

KAISER FOUNDATION HEALTH
PLAN, INC.; KAISER
FOUNDATION HOSPITALS,
INC.; and THE PERMANENTE
MEDICAL GROUP, all doing
business as KAISER
PERMANENTE MEDICAL CARE
PROGRAM,

Defendants.

Case No. CV 10 2833-RS

**STIPULATION AND ~~PROPOSED~~ ORDER RE
SCHEDULING AND DEFENDANTS' MOTION
TO DISMISS PLAINTIFFS' FIRST AMENDED
COMPLAINT OR IN THE ALTERNATIVE, TO
STRIKE AND FOR A MORE DEFINITE
STATEMENT AS MODIFIED BY COURT**

Judge: Hon. Richard Seeborg
Department: Courtroom 3, 17th Floor

Complaint Filed: June 28, 2010

1 GORDON W. RENNEISEN
2 grenneisen@cornerlaw.com
3 CORNERSTONE LAW GROUP
4 595 Market Street, Suite 2360
5 San Francisco, California 94105
6 Telephone: (415) 625-5025
7 Facsimile: (415) 655-8236

8 JEREMY L. FRIEDMAN
9 jlfried@comcast.net
10 Attorney At Law
11 2801 Sylhowe Road
12 Oakland, California 94602
13 Telephone: (510) 530-9060
14 Facsimile: (510) 530-9087

15 KENDRA L. TANACEA
16 Kendra.tanacea@sbcglobal.net
17 LAW OFFICES OF KENDRA L. TANACEA
18 198 Corbett Avenue
19 San Francisco, California 94114
20 Telephone: (415) 934-8844
21 Facsimile: (415) 934-8840

22 Attorneys for Plaintiffs
23 BRENDA HILL, MEDHANIE BERNE,
24 PATSY HARDY, MICHELLE MIKE,
25 EVELYN JENNINGS and RENA HARRISON
26 on behalf of themselves and all others similarly situated
27
28

IT IS HEREBY STIPULATED by and among the Plaintiffs, Brenda Hill, Medhanie Berne, Patsy Hardy, Michelle Mike, Evelyn Jennings and Rena Harrison (hereinafter “Plaintiffs”), by and through their counsel of record, Jeremy L. Friedman, Gordon W. Renneisen of Cornerstone Law Group, and Kendra L. Tanacea of Law Offices of Kendra L. Tanacea, and Defendants Kaiser Foundation Health Plan, Inc., Kaiser Foundation Hospitals, and The Permanente Medical Group, Inc. (hereinafter “Defendants”), by and through their counsel of record, Nancy L. Abell of Paul, Hastings, Janofsky & Walker LLP, as set forth below.

WHEREAS:

1. Defendants’ Motion to Dismiss Plaintiffs’ First Amended Complaint or in the Alternative, to Strike and for a More Definite Statement (the “Motion to Dismiss”), is currently set for hearing on August 25, 2011 and Plaintiffs’ opposition papers are due on August 4, 2011.

2. After Defendants filed the Motion to Dismiss, the parties met and conferred regarding issues raised by the Motion and issues relating to Plaintiffs’ First Amended Complaint. The parties did not reach any agreements, but have now exchanged discovery responses and Rule 26 disclosures, and expect to meet and confer further.

3. Plaintiffs need more time in which to review documents produced by Defendants and to decide whether or to what extent the assertions and allegations of the First Amended Complaint should be altered or abandoned in a Second Amended Complaint.

4. After Defendants filed the Motion to Dismiss, the United States Supreme Court issued its decision in *Wal-Mart Stores, Inc. v. Dukes*, 130 S. Ct. 2743 (2010) (“*Wal-Mart*”). To the extent that Defendants contend that *Wal-Mart* requires dismissal of any class claims asserted by Plaintiffs in this action, the parties agree that – rather than having Defendants raise *Wal-Mart* issues for the first time in reply papers regarding the pending Motion to Dismiss – the interests of justice and judicial economy would be better served by full briefing of the *Wal-Mart* issues.

1 THEREFORE, THE PARTIES HEREBY STIPULATE, AND JOINTLY
 2 REQUEST THE COURT TO ORDER THAT:

3 1. The hearing on Defendants' pending Motion to Dismiss, and Plaintiffs'
 4 deadline for filing opposition papers, will be taken off calendar without prejudice to Defendants.

5 2. Plaintiffs will have until September 8, 2011 to file a Second Amended
 6 Complaint or to notify Defendants that they do not intend to do so.

7 3. If Plaintiffs file a Second Amended Complaint on or before September 8,
 8 2011, Defendants will immediately withdraw their currently pending Motion to Dismiss without
 9 prejudice. Defendants then will have 30 days following the filing of the Second Amended
 10 Complaint in which to file a responsive pleading, which may be a motion.

11 4. If Plaintiffs notify Defendants on or before September 8, 2011 that
 12 Plaintiffs will not be filing a Second Amended Complaint, Defendants will have 30 days in which
 13 to re-notice the Motion to Dismiss and to file a new memorandum of points and authorities
 14 addressing any *Wal-Mart* issues which Defendants wish to bring to the attention of the Court.

15 5. The parties will not proceed with any further discovery until the earlier of
 16 (i) the date that the Court rules on Defendants' pending Motion to Dismiss, or (ii) the date that the
 17 Court rules on a motion filed by Defendants in response to any Second Amended Complaint filed
 18 by Plaintiffs, or (iii) the date that Defendants file an answer.

19
 20
 21 **ORDER**

22 In light of the parties' stipulation, defendants' pending motion to dismiss is denied without
 23 prejudice. It may be renoticed as provided in the stipulation.

24 IT IS SO ORDERED.

25 Dated: 8/1/11

26 

27 HONORABLE RICHARD SEEBORG
 28 UNITED STATES DISTRICT JUDGE

1 Dated: July 29, 2011

2 Respectfully Submitted By:

3 NANCY L. ABELL
4 HEATHER A. MORGAN
5 PAUL, HASTINGS, JANOFSKY & WALKER LLP

6 By: /s/ Nancy L. Abell
NANCY L. ABELL

7 Attorneys for Defendants
8 KAISER FOUNDATION HEALTH PLAN, INC.,
9 KAISER FOUNDATION HOSPITALS, and
THE PERMANENTE MEDICAL GROUP, INC.

10
11 GORDON W. RENNEISEN
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13 JEREMY L. FRIEDMAN
14 ATTORNEY AT LAW
KENDRA L. TANACEA
LAW OFFICES OF KENDRA L. TANACEA

15 By: /s/ Gordon W. Renneisen
16 GORDON W. RENNEISEN

17 Attorneys for Plaintiffs
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